

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

BRYAN W. CLARK,

Plaintiff,

vs.

400 N. ORLEANS, LLC;
DEUTSCH, LEVY & ENGEL,
CHARTERED; and LEO AUBEL,

Defendants.

Case No.: 07-cv-06809

**DEFENDANTS DEUTSCH, LEVY & ENGEL, CHARTERED AND LEO G. AUBEL'S
MOTION TO DISMISS**

Defendants Deustch, Levy & Engel, Chartered and Leo G. Aubel, by and through their attorneys, for their Motion to Dismiss pursuant to Federal Rule of Civil Procedure 12(b)(6), state as follows:

1. Plaintiffs bring Count III of the Complaint against Deustch, Levy & Engel and Leo G. Aubel alleging legal malpractice as a result of their representation of Mr. Clark in his purchase of a condominium unit from 400 N. Orleans, LLC. Mr. Clark's action for legal malpractice is admittedly premature and should be dismissed.

2. The Complaint conceded that the legal malpractice count against Deustch, Levy & Engel and Mr. Aubel "predicated on the **possible determination** that Clark is not entitled to reformation of the Agreement, that Orleans did not breach the Agreement, that the Agreement is enforceable, and that Clark is liable to Orleans for breach of the Agreement." *See* Complaint at ¶ 56.

3. Plaintiff admittedly has yet to suffer damages as a result of the alleged legal malpractice.

4. Thus, this Court should find Count III premature because under Illinois law no legal malpractice action can stand where the plaintiff has not yet suffered any damages and where it is unclear that the plaintiff ever will suffer damages.

5. In the alternative, to the extent this Court finds that Clark has suffered actual damages, the specified damages set forth in the Amended Complaint do not meet the minimum jurisdictional amount of \$75,000.

6. In support of this Motion to Dismiss, Defendants Deutsch, Levy & Engel and Leo G. Aubel incorporate the arguments set forth in the attached Memorandum in Support of Their Motion to Dismiss.

WHEREFORE, Defendants Deutsch, Levy & Engel, Chartered and Leo G. Aubel respectfully request that this Court dismiss Count III of the Complaint pursuant to Rule 12(b)(6).

Respectfully submitted,

/s/
*Attorneys for Deutsch, Levy & Engel, Chartered
and Leo G. Aubel*

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